

**TRIBAL GOVERNMENT CONSULTATION WITH THE FEDERAL
COMMUNICATIONS COMMISSION (FCC)**

**STATEMENT OF HON. GARY BATTON, CHIEF
CHOCTAW NATION OF OKLAHOMA**

August 7, 2015

The Choctaw Nation of Oklahoma offers its strong support for the Federal Communications Commission ("FCC") Tribal Lands Lifeline subsidy as it was implemented up until 2015. Without this subsidy, thousands of Choctaw tribal citizens would not be able to afford basic telephone service. Literally, it is their lifeline to 911 emergency calls, essential services, and far-flung family and tribal communications.

We recognize and applaud the commitment of the FCC to overcoming barriers that preclude low-income subscribers from accessing essential telecommunication services. The Lifeline Program has since 1985 sought to raise the exceedingly low percentage of telecommunications service subscribers on tribal lands. Under current law, residents of tribal lands who are eligible for the Lifeline Program receive a \$25.00 monthly subsidy in addition to the standard \$9.25 monthly subsidy. The Lifeline Program defines tribal lands as "including former reservations in Oklahoma."

Generally speaking, the FCC has found significantly lower-than-average incomes and subscribership levels among Native American Indians on tribal lands, concluding that they are characterized by geographic isolation, high rates of poverty, and low telephone subscribership.

The Tribal Lands Lifeline payment of up to \$100 for the initial service connection and a \$25/month service subsidy helps low-income consumers meet charges for basic local telephone service. This is consistent with the FCC policy favoring rules that provide additional, targeted subsidy support under the universal service low-income programs in order to create financial incentives for carriers to serve and deploy facilities on tribal lands. 15 FCC Rcd at 12213-14, para. 5.

The financial eligibility requirements of the Tribal Lands Lifeline subsidy are quite clear, with a household's participation conditioned upon either its income falling below low-income guidelines or a household member receiving benefits from low-income programs such as Supplemental Nutrition Assistance Program or SNAP, Low-income Home Energy Assistance Program or LIHEAP, Temporary Assistance for Needy Families or TANF, National Free School Lunch or NSL, Medical Assistance or Medicaid, Federal Public Housing or Section 8, Supplemental Security Income or SSI, Vocational Rehabilitation, Oklahoma Sales Tax Relief, Bureau of Indian Affairs General Assistance Program or GA, Tribally Administered Temporary Assistance for Needy Families or Tribal TANF, Food Distribution Program on Indian Reservations or FDIPIR, or income qualified Head Start.

While the financial eligibility requirements for participation in the Tribal Lands Lifeline program are straightforward, the FCC has stumbled in different directions over the past two decades on how it defines "tribal lands", especially in Oklahoma. As a result, the FCC has been confused and uneven in its implementation of the Tribal Lands Lifeline subsidy, and now, with

its Order 15-71 released June 22, 2015, has created unnecessary controversy where there should be none.

If the FCC and other federal policy makers had properly followed the government-to-government protocols requiring tribal consultation in advance of making a federal policy decision affecting tribal communities, the tribes could have cleared up the FCC's confusion earlier this year. While the Choctaw Nation of Oklahoma welcomes this month's tribal consultation activity by the FCC, it is important to highlight the flawed nature of this effort. Tribal consultation must precede and inform federal decisions, not follow them. It is a perversion to use "tribal consultation" as a tribal pacifier. With all due respect, the Choctaw Nation of Oklahoma refuses to be used that way.

The Choctaw Nation of Oklahoma understands the budget pressures that constrain expansion of the Tribal Lands Lifeline program. We also understand the policy pressures to expand the Tribal Lands Lifeline program to cover data service charges as Internet technology is quickly transforming how people use telephones and computers and is consequentially increasing data transmission of text, email and Voice Over Internet Protocol ("VOIP"). Indeed, the Choctaw Nation is a proud partner with the U.S. Department of Housing and Urban Development and the U.S. Department of Agriculture in the ConnectHome program designed to bring internet connectivity to low-income households in southeastern Oklahoma. As the first Indian Tribe to be designated a Promise Zone by the Obama Administration, the Choctaw Nation of Oklahoma is at the forefront of efforts in Oklahoma, along with our neighboring governments, to expand our region's ties to the larger national and world economies.

However, even as we join with our local, state and federal partners to lead our people into the future, the Choctaw Nation of Oklahoma believes the Tribal Lands Lifeline subsidy should not be further restricted in order to pay for new advances.

When it comes to Oklahoma, the FCC Order released June 22, 2015, which would end the \$25 monthly subsidy for many members of the Choctaw Nation living outside former reservation lands, fails to take into account two unique aspects of tribal lands in Oklahoma.

First, we must remind the FCC that all of Oklahoma – the entire State – was established as "Indian Territory". Many different tribes, ours included, were pushed into Oklahoma from our homelands in other regions and forced to live among each other in new configurations. As a result, Choctaws have lived for decades in communities throughout all of Oklahoma, even as our "reservation" status has been forcibly changed to "former reservation". Today, many Choctaws continue to live in scattered communities and neighborhoods throughout all of Oklahoma.

Second, we must remind the FCC that many of the thousands of Choctaw families who live in urban Oklahoma areas like Oklahoma City or Tulsa reside in lower-income neighborhoods that are nearly as isolated from telephone service infrastructure as are Choctaw families in rural southeastern Oklahoma. Thus, in those communities, the Tribal Lands Lifeline subsidy continues to be a justifiable way to increase telephone penetration.

Any adjustment to the definition of tribal lands for purposes of the Tribal Lands Lifeline program should take into account the unique factors that characterize tribal lands in Oklahoma.

At a minimum, the Choctaw Nation of Oklahoma insists that the following principles govern any changes made by FCC to the Tribal Lands Lifeline Program:

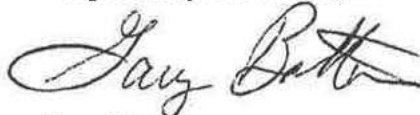
I. FCC Must Protect Existing Tribal Participants. Any change to the Tribal Lands Lifeline Program must hold harmless those tribal households living anywhere in Oklahoma who previously participated and continue to meet the income qualifications. Otherwise, the cut off of the Tribal Lands Lifeline subsidy based on location in Oklahoma would be painfully disruptive to many Choctaw households throughout Oklahoma for whom this subsidy is the difference between telephone service and disaster.

II. FCC Should Prioritize Future Tribal Citizen Participation. If the FCC does persist in implementing its plan to diminish the definition of tribal land areas in Oklahoma in which income eligible households may participate in the Tribal Lands Lifeline program in the future, the FCC should, at the very least, include eligible Indian households in Oklahoma outside of the more- narrowly-defined tribal land areas to participate in the Tribal Lands Lifeline subsidy program if any person in the household is an enrolled member of a federally-recognized Indian tribe. This will protect the thousands of Choctaw citizens who may live in areas of Oklahoma that the FCC removes from the definition of "tribal lands".

The Choctaw Nation of Oklahoma appreciates this opportunity to provide our comments. We reiterate that government-to-government consultation must be meaningful, which by definition, must mean that tribal leaders speak and federal officials listen before making decisions that affect tribes. In an era of Indian self-determination, tribal self-governance and respect for our nation-to-nation relationship, the Choctaw Nation of Oklahoma should be treated as the federal government's decision-making partner, not its subordinate.

Thank you for this opportunity to comment and consult. We look forward to working with you to increase the opportunities available to Choctaw Nation citizens.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary Batton", written in a cursive style.

Gary Batton

Chief

CHOCTAW NATION OF OKLAHOMA